

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FREDERICK BANKS,)	
)	CASE NO. 4:17CV2530
Plaintiff,)	
)	JUDGE BENITA Y. PEARSON
v.)	
)	
JIM GILES, <i>et al.</i> ,)	<u>MEMORANDUM OF OPINION AND</u>
)	<u>ORDER</u>
Defendants.)	[Resolving ECF Nos. 4 and 7]

This is another removed *pro se* action initially filed by Plaintiff Frederick Banks in the Mahoning County Court of Common Pleas. Banks is an inmate in the Northeast Ohio Correctional Center and a frequent, frivolous filer of actions in federal and state courts.

In his present complaint, captioned as a “Petition for a Writ of Mandamus,” Banks purports to assert constitutional rights violations on behalf of another inmate, Inmate Peoples. [ECF. No. 1-1](#). Banks alleges that Defendant Jim Giles unlawfully confiscated Peoples’ magazines and other property without just compensation in violation of Peoples’ rights under the Fifth and Fourteenth Amendments. [Id. at PageID #: 9](#). Banks asserts he has a right to seek relief on behalf of Peoples because he has suffered from the “same activity” as Peoples, has previously brought a case against Defendant Giles for the same conduct, and because Peoples is “incapacitated in a medical ‘dry cell’ without any way to bring the action himself.” [Id.](#) Banks seeks injunctive relief. He also requests class certification and that counsel be appointed to represent the class.

(4:17CV2530)

Following removal, Defendants filed a motion to dismiss pursuant to [Federal Rule of Procedure 12\(b\)\(6\)](#). [ECF No. 4](#). A complaint is subject to dismissal under Rule 12(b)(6) if it fails to state claim on which relief can be granted when its factual allegations are presumed true and all reasonable inferences are drawn in the non-moving party's favor. [Total Benefits Planning Agency, Inc. v. Anthem Blue Cross and Blue Shield](#), 552 F.3d 430, 434 (6th Cir. 2008). In order to survive a motion to dismiss, "the complaint must present 'enough facts to state claim to relief that is plausible on its face.'" [Id.](#) (citing [Bell Atlantic Corp. v. Twombly](#), 550 U.S. 544 (2007)).

The Court finds Defendants' motion to be well-taken. Banks lacks standing to bring any claim on behalf of Peoples, or anyone other than himself. [Andrews v. Flaiz](#), Case No. 14CV623, 2014 WL 4925044, at *17 (N. D. Ohio Sept. 30, 2014) (holding that a *pro se* litigant "may bring his own claims to federal court without counsel, but not the claims of others"). Banks' assertion in his opposition brief that he may bring the action on behalf of Peoples as "next friend" lacks merit.

Conclusion

Accordingly, Defendants' Motion to Dismiss Banks' Complaint Pursuant to [Fed. R. Civ. P. 12\(b\)\(6\)](#) ([ECF No. 4](#)) is granted. The motion Banks has filed for sanctions and other relief ([ECF No. 7](#)) is denied. The Court further certifies, pursuant to [28 U.S.C. §1915\(a\)\(3\)](#), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

June 22, 2018
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge